

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 513
OFFERED BY MR. NEY

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “527 Reform Act of
3 2005”.

4 SEC. 2. TREATMENT OF SECTION 527 ORGANIZATIONS.

5 (a) DEFINITION OF POLITICAL COMMITTEE.—Sec-
6 tion 301(4) of the Federal Election Campaign Act of 1971
7 (2 U.S.C. 431(4)) is amended—

8 (1) by striking the period at the end of sub-
9 paragraph (C) and inserting “; or”; and

10 (2) by adding at the end the following:

11 “(D) any applicable 527 organization.”.

12 (b) DEFINITION OF APPLICABLE 527 ORGANIZA-
13 TION.—Section 301 of such Act (2 U.S.C. 431) is amend-
14 ed by adding at the end the following new paragraph:

15 “(27) APPLICABLE 527 ORGANIZATION.—

16 “(A) IN GENERAL.—For purposes of para-
17 graph (4)(D), the term ‘applicable 527 organi-

1 zation’ means a committee, club, association, or
2 group of persons that—

3 “(i) has given notice to the Secretary
4 of the Treasury under section 527(i) of the
5 Internal Revenue Code of 1986 that it is
6 to be treated as an organization described
7 in section 527 of such Code; and

8 “(ii) is not described in subparagraph
9 (B).

10 “(B) EXCEPTED ORGANIZATIONS.—A com-
11 mittee, club, association, or other group of per-
12 sons described in this subparagraph is—

13 “(i) an organization described in sec-
14 tion 527(i)(5) of the Internal Revenue
15 Code of 1986;

16 “(ii) an organization which is a com-
17 mittee, club, association or other group of
18 persons that is organized, operated, and
19 makes disbursements exclusively for paying
20 expenses described in the last sentence of
21 section 527(e)(2) of the Internal Revenue
22 Code of 1986 or expenses of a newsletter
23 fund described in section 527(g) of such
24 Code;

1 “(iii) an organization which is a com-
2 mittee, club, association, or other group
3 that consists solely of candidates for State
4 or local office, individuals holding State or
5 local office, or any combination of either,
6 but only if the organization refers only to
7 one or more non-Federal candidates or ap-
8 plicable State or local issues in all of its
9 voter drive activities and does not refer to
10 a Federal candidate or a political party in
11 any of its voter drive activities; or

12 “(iv) an organization described in sub-
13 paragraph (C).

14 “(C) APPLICABLE ORGANIZATION.—For
15 purposes of subparagraph (B)(iv), an organiza-
16 tion described in this subparagraph is a com-
17 mittee, club, association, or other group of per-
18 sons whose election or nomination activities re-
19 late exclusively to—

20 “(i) elections where no candidate for
21 Federal office appears on the ballot; or

22 “(ii) one or more of the following pur-
23 poses:

24 “(I) Influencing the selection,
25 nomination, election, or appointment

1 of one or more candidates to non-Fed-
2 eral offices.

3 “(II) Influencing one or more ap-
4 plicable State or local issues.

5 “(III) Influencing the selection,
6 appointment, nomination, or con-
7 firmation of one or more individuals
8 to non-elected offices.

9 “(D) EXCLUSIVITY TEST.—A committee,
10 club, association, or other group of persons
11 shall not be treated as meeting the exclusivity
12 requirement of subparagraph (C) if it makes
13 disbursements aggregating more than \$1,000
14 for any of the following:

15 “(i) A public communication that pro-
16 motes, supports, attacks, or opposes a
17 clearly identified candidate for Federal of-
18 fice during the 1-year period ending on the
19 date of the general election for the office
20 sought by the clearly identified candidate
21 (or, if a runoff election is held with respect
22 to such general election, on the date of the
23 runoff election).

24 “(ii) Any voter drive activity during a
25 calendar year, except that no disburse-

1 ments for any voter drive activity shall be
2 taken into account under this subpara-
3 graph if the committee, club, association,
4 or other group of persons during such cal-
5 endar year—

6 “(I) makes disbursements for
7 voter drive activities with respect to
8 elections in only 1 State and complies
9 with all applicable election laws of
10 that State, including laws related to
11 registration and reporting require-
12 ments and contribution limitations;

13 “(II) refers to one or more non-
14 Federal candidates or applicable State
15 or local issues in all of its voter drive
16 activities and does not refer to any
17 Federal candidate or any political
18 party in any of its voter drive activi-
19 ties;

20 “(III) does not have a candidate
21 for Federal office, an individual who
22 holds any Federal office, a national
23 political party, or an agent of any of
24 the foregoing, control or materially
25 participate in the direction of the or-

1 ganization, solicit contributions to the
2 organization (other than funds which
3 are described under clauses (i) and
4 (ii) of section 323(e)(1)(B)), or direct
5 disbursements, in whole or in part, by
6 the organization; and

7 “(IV) makes no contributions to
8 Federal candidates.

9 “(E) CERTAIN REFERENCES TO FEDERAL
10 CANDIDATES NOT TAKEN INTO ACCOUNT.—For
11 purposes of subparagraphs (B)(iii) and
12 (D)(ii)(II), a voter drive activity shall not be
13 treated as referring to a clearly identified Fed-
14 eral candidate if the only reference to the can-
15 didate in the activity is—

16 “(i) a reference in connection with an
17 election for a non-Federal office in which
18 such Federal candidate is also a candidate
19 for such non-Federal office; or

20 “(ii) a reference to the fact that the
21 candidate has endorsed a non-Federal can-
22 didate or has taken a position on an appli-
23 cable State or local issue, including a ref-
24 erence that constitutes the endorsement or
25 position itself.

1 “(F) CERTAIN REFERENCES TO POLITICAL
2 PARTIES NOT TAKEN INTO ACCOUNT.—For pur-
3 poses of subparagraphs (B)(iii) and (D)(ii)(II),
4 a voter drive activity shall not be treated as re-
5 ferring to a political party if the only reference
6 to the party in the activity is—

7 “(i) a reference for the purpose of
8 identifying a non-Federal candidate;

9 “(ii) a reference for the purpose of
10 identifying the entity making the public
11 communication or carrying out the voter
12 drive activity; or

13 “(iii) a reference in a manner or con-
14 text that does not reflect support for or op-
15 position to a Federal candidate or can-
16 didates and does reflect support for or op-
17 position to a State or local candidate or
18 candidates or an applicable State or local
19 issue.

20 “(G) APPLICABLE STATE OR LOCAL
21 ISSUE.—For purposes of this paragraph, the
22 term ‘applicable State or local issue’ means any
23 State or local ballot initiative, State or local ref-
24 erendum, State or local constitutional amend-

1 ment, State or local bond issue, or other State
2 or local ballot issue.”.

3 (c) DEFINITION OF VOTER DRIVE ACTIVITY.—Sec-
4 tion 301 of such Act (2 U.S.C. 431), as amended by sub-
5 section (b), is further amended by adding at the end the
6 following new paragraph:

7 “(28) VOTER DRIVE ACTIVITY.—The term
8 ‘voter drive activity’ means any of the following ac-
9 tivities conducted in connection with an election in
10 which a candidate for Federal office appears on the
11 ballot (regardless of whether a candidate for State
12 or local office also appears on the ballot):

13 “(A) Voter registration activity.

14 “(B) Voter identification.

15 “(C) Get-out-the-vote activity.

16 “(D) Generic campaign activity.

17 “(E) Any public communication related to
18 activities described in subparagraphs (A)
19 through (D).

20 Such term shall not include any activity described in
21 subparagraph (A) or (B) of section 316(b)(2).”.

22 (d) REGULATIONS.—The Federal Election Commis-
23 sion shall promulgate regulations to implement this sec-
24 tion not later than 60 days after the date of enactment
25 of this Act.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date which is 60 days
3 after the date of enactment of this Act.

4 **SEC. 3. RULES FOR ALLOCATION OF EXPENSES BETWEEN**
5 **FEDERAL AND NON-FEDERAL ACTIVITIES.**

6 (a) IN GENERAL.—Title III of the Federal Election
7 Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended
8 by adding at the end the following:

9 **“SEC. 325. ALLOCATION AND FUNDING RULES FOR CER-**
10 **TAIN EXPENSES RELATING TO FEDERAL AND**
11 **NON-FEDERAL ACTIVITIES.**

12 “(a) IN GENERAL.—In the case of any disbursements
13 by any political committee that is a separate segregated
14 fund or nonconnected committee for which allocation rules
15 are provided under subsection (b)—

16 “(1) the disbursements shall be allocated be-
17 tween Federal and non-Federal accounts in accord-
18 ance with this section and regulations prescribed by
19 the Commission; and

20 “(2) in the case of disbursements allocated to
21 non-Federal accounts, may be paid only from a
22 qualified non-Federal account.

23 “(b) COSTS TO BE ALLOCATED AND ALLOCATION
24 RULES.—

1 “(1) IN GENERAL.—Disbursements by any sep-
2 arate segregated fund or nonconnected committee,
3 other than an organization described in section
4 323(b)(1), for any of the following categories of ac-
5 tivity shall be allocated as follows:

6 “(A) 100 percent of the expenses for public
7 communications or voter drive activities that
8 refer to one or more clearly identified Federal
9 candidates, but do not refer to any clearly iden-
10 tified non-Federal candidates, shall be paid with
11 funds from a Federal account, without regard
12 to whether the communication refers to a polit-
13 ical party.

14 “(B) At least 50 percent, or a greater per-
15 centage if the Commission so determines by
16 regulation, of the expenses for public commu-
17 nications and voter drive activities that refer to
18 one or more clearly identified candidates for
19 Federal office and one or more clearly identified
20 non-Federal candidates shall be paid with funds
21 from a Federal account, without regard to
22 whether the communication refers to a political
23 party.

24 “(C) At least 50 percent, or a greater per-
25 centage if the Commission so determines by

1 regulation, of the expenses for public commu-
2 nications or voter drive activities that refer to
3 a political party, but do not refer to any clearly
4 identified Federal or non-Federal candidate,
5 shall be paid with funds from a Federal ac-
6 count, except that this paragraph shall not
7 apply to communications or activities that re-
8 late exclusively to elections where no candidate
9 for Federal office appears on the ballot.

10 “(D) At least 50 percent, or a greater per-
11 centage if the Commission so determines by
12 regulation, of the expenses for public commu-
13 nications or voter drive activities that refer to
14 a political party and refer to one or more clear-
15 ly identified non-Federal candidates, but do not
16 refer to any clearly identified Federal can-
17 didates, shall be paid with funds from a Federal
18 account, except that this paragraph shall not
19 apply to communications or activities that re-
20 late exclusively to elections where no candidate
21 for Federal office appears on the ballot.

22 “(E) Unless otherwise determined by the
23 Commission in its regulations, at least 50 per-
24 cent of any administrative expenses, including
25 rent, utilities, office supplies, and salaries not

1 attributable to a clearly identified candidate,
2 shall be paid with funds from a Federal ac-
3 count, except that for a separate segregated
4 fund such expenses may be paid instead by its
5 connected organization.

6 “(F) At least 50 percent, or a greater per-
7 centage if the Commission so determines by
8 regulation, of the direct costs of a fundraising
9 program or event, including disbursements for
10 solicitation of funds and for planning and ad-
11 ministration of actual fundraising events, where
12 Federal and non-Federal funds are collected
13 through such program or event shall be paid
14 with funds from a Federal account, except that
15 for a separate segregated fund such costs may
16 be paid instead by its connected organization.
17 This paragraph shall not apply to any fund-
18 raising solicitations or any other activity that
19 constitutes a public communication.

20 “(2) CERTAIN REFERENCES TO FEDERAL CAN-
21 DIDATES NOT TAKEN INTO ACCOUNT.—For purposes
22 of paragraph (1), a public communication or voter
23 drive activity shall not be treated as referring to a
24 clearly identified Federal candidate if the only ref-

1 erence to the candidate in the communication or ac-
2 tivity is—

3 “(A) a reference in connection with an
4 election for a non-Federal office in which such
5 Federal candidate is also a candidate for such
6 non-Federal office; or

7 “(B) a reference to the fact that the can-
8 didate has endorsed a non-Federal candidate or
9 has taken a position on an applicable State or
10 local issue (as defined in section 301(27)(G)),
11 including a reference that constitutes the en-
12 dorsement or position itself.

13 “(3) CERTAIN REFERENCES TO POLITICAL PAR-
14 TIES NOT TAKEN INTO ACCOUNT.—For purposes of
15 paragraph (1), a public communication or voter
16 drive activity shall not be treated as referring to a
17 political party if the only reference to the party in
18 the communication or activity is—

19 “(A) a reference for the purpose of identi-
20 fying a non-Federal candidate;

21 “(B) a reference for the purpose of identi-
22 fying the entity making the public communica-
23 tion or carrying out the voter drive activity; or

24 “(C) a reference in a manner or context
25 that does not reflect support for or opposition

1 to a Federal candidate or candidates and does
2 reflect support for or opposition to a State or
3 local candidate or candidates or an applicable
4 State or local issue.

5 “(c) QUALIFIED NON-FEDERAL ACCOUNT.—

6 “(1) IN GENERAL.—For purposes of this sec-
7 tion, the term ‘qualified non-Federal account’ means
8 an account which consists solely of amounts—

9 “(A) that, subject to the limitations of
10 paragraphs (2) and (3), are raised by the sepa-
11 rate segregated fund or nonconnected com-
12 mittee only from individuals, and

13 “(B) with respect to which all require-
14 ments of Federal, State, or local law (including
15 any law relating to contribution limits) are met.

16 “(2) LIMITATION ON INDIVIDUAL DONA-
17 TIONS.—

18 “(A) IN GENERAL.—A separate segregated
19 fund or nonconnected committee may not ac-
20 cept more than \$25,000 in funds for its quali-
21 fied non-Federal account from any one indi-
22 vidual in any calendar year.

23 “(B) AFFILIATION.—For purposes of this
24 paragraph, all qualified non-Federal accounts of
25 separate segregated funds or nonconnected

1 committees which are directly or indirectly es-
2 tablished, financed, maintained, or controlled by
3 the same person or persons shall be treated as
4 one account.

5 “(3) FUNDRAISING LIMITATION.—

6 “(A) IN GENERAL.—No donation to a
7 qualified non-Federal account may be solicited,
8 received, directed, transferred, or spent by or in
9 the name of any person described in subsection
10 (a) or (e) of section 323.

11 “(B) FUNDS NOT TREATED AS SUBJECT
12 TO ACT.—Except as provided in subsection
13 (a)(2) and this subsection, any funds raised for
14 a qualified non-Federal account in accordance
15 with the requirements of this section shall not
16 be considered funds subject to the limitations,
17 prohibitions, and reporting requirements of this
18 Act for any purpose (including for purposes of
19 subsection (a) or (e) of section 323 or sub-
20 section (d)(1) of this section).

21 “(d) DEFINITIONS.—

22 “(1) FEDERAL ACCOUNT.—The term ‘Federal
23 account’ means an account which consists solely of
24 contributions subject to the limitations, prohibitions,
25 and reporting requirements of this Act. Nothing in

1 this section or in section 323(b)(2)(B)(iii) shall be
2 construed to infer that a limit other than the limit
3 under section 315(a)(1)(C) applies to contributions
4 to the account.

5 “(2) NONCONNECTED COMMITTEE.—The term
6 ‘nonconnected committee’ shall not include a polit-
7 ical committee of a political party.

8 “(3) VOTER DRIVE ACTIVITY.—The term ‘voter
9 drive activity’ has the meaning given such term in
10 section 301(28).”.

11 (b) REPORTING REQUIREMENTS.—Section 304(e) of
12 the Federal Election Campaign Act of 1971 (2 U.S.C.
13 434(e)) is amended—

14 (1) by redesignating paragraphs (3) and (4) as
15 paragraphs (4) and (5); and

16 (2) by inserting after paragraph (2) the fol-
17 lowing new paragraph:

18 “(3) RECEIPTS AND DISBURSEMENTS FROM
19 QUALIFIED NON-FEDERAL ACCOUNTS.—In addition
20 to any other reporting requirement applicable under
21 this Act, a political committee to which section
22 325(a) applies shall report all receipts and disburse-
23 ments from a qualified non-Federal account (as de-
24 fined in section 325(c)).”.

1 (c) REGULATIONS.—The Federal Election Commis-
2 sion shall promulgate regulations to implement the amend-
3 ments made by this section not later than 180 days after
4 the date of enactment of this Act.

5 (d) EFFECTIVE DATE.—The amendments made by
6 this section shall take effect on the date which is 180 days
7 after the date of enactment of this Act.

8 **SEC. 4. CONSTRUCTION.**

9 No provision of this Act, or amendment made by this
10 Act, shall be construed—

11 (1) as approving, ratifying, or endorsing a regu-
12 lation promulgated by the Federal Election Commis-
13 sion;

14 (2) as establishing, modifying, or otherwise af-
15 fecting the definition of political organization for
16 purposes of the Internal Revenue Code of 1986; or

17 (3) as affecting the determination of whether a
18 group organized under section 501(c) of the Internal
19 Revenue Code of 1986 is a political committee under
20 section 301(4) of the Federal Election Campaign
21 Act of 1971.

22 **SEC. 5. JUDICIAL REVIEW.**

23 (a) SPECIAL RULES FOR ACTIONS BROUGHT ON
24 CONSTITUTIONAL GROUNDS.—If any action is brought for
25 declaratory or injunctive relief to challenge the constitu-

1 tionality of any provision of this Act or any amendment
2 made by this Act, the following rules shall apply:

3 (1) The action shall be filed in the United
4 States District Court for the District of Columbia
5 and shall be heard by a 3-judge court convened pur-
6 suant to section 2284 of title 28, United States
7 Code.

8 (2) A copy of the complaint shall be delivered
9 promptly to the Clerk of the House of Representa-
10 tives and the Secretary of the Senate.

11 (3) A final decision in the action shall be re-
12 viewable only by appeal directly to the Supreme
13 Court of the United States. Such appeal shall be
14 taken by the filing of a notice of appeal within 10
15 days, and the filing of a jurisdictional statement
16 within 30 days, of the entry of the final decision.

17 (4) It shall be the duty of the United States
18 District Court for the District of Columbia and the
19 Supreme Court of the United States to advance on
20 the docket and to expedite to the greatest possible
21 extent the disposition of the action and appeal.

22 (b) INTERVENTION BY MEMBERS OF CONGRESS.—In
23 any action in which the constitutionality of any provision
24 of this Act or any amendment made by this Act is raised
25 (including but not limited to an action described in sub-

1 section (a)), any Member of the House of Representatives
2 (including a Delegate or Resident Commissioner to Con-
3 gress) or Senate shall have the right to intervene either
4 in support of or opposition to the position of a party to
5 the case regarding the constitutionality of the provision
6 or amendment. To avoid duplication of efforts and reduce
7 the burdens placed on the parties to the action, the court
8 in any such action may make such orders as it considers
9 necessary, including orders to require intervenors taking
10 similar positions to file joint papers or to be represented
11 by a single attorney at oral argument.

12 (c) CHALLENGE BY MEMBERS OF CONGRESS.—Any
13 Member of Congress may bring an action, subject to the
14 special rules described in subsection (a), for declaratory
15 or injunctive relief to challenge the constitutionality of any
16 provision of this Act or any amendment made by this Act.

17 (d) APPLICABILITY.—

18 (1) INITIAL CLAIMS.—With respect to any ac-
19 tion initially filed on or before December 31, 2008,
20 the provisions of subsection (a) shall apply with re-
21 spect to each action described in such subsection.

22 (2) SUBSEQUENT ACTIONS.—With respect to
23 any action initially filed after December 31, 2008,
24 the provisions of subsection (a) shall not apply to
25 any action described in such subsection unless the

- 1 person filing such action elects such provisions to
- 2 apply to the action.